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12 Attorneys for Defendant

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN FRANCISCO DIVISION
 16

17 RONALD MAHTESIAN,

18 Plaintiff,

19 v.

20 MICHAEL B. MUKASEY, Attorney
 General for the United States of America,

21 Defendant.

No. C 07- 4172 WHA

STIPULATION AND AGREEMENT
 FOR COMPROMISE SETTLEMENT
 AND ~~PROPOSED~~ ORDER

22
 23 IT IS HEREBY STIPULATED AND AGREED by and between plaintiff RONALD
 24 MAHTESIAN ("Plaintiff") and defendants MICHAEL B. MUKASEY, Attorney General for the
 25 United States of America , (hereinafter the "Federal Defendant"), by and through their
 26 undersigned counsel, as follows:

27 WHEREAS, Plaintiff has commenced litigation in the United States District Court for the

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STIPULATION AND AGREEMENT FOR COMPROMISE SETTLEMENT AND ~~PROPOSED~~ ORDER
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1 Northern District of California, such litigation docketed as Civil Action, C-07-4172 WHA
2 against the Federal Defendant;

3 WHEREAS, Plaintiff has filed administrative complaints and grievances in connection
4 with employment with the Federal Defendant;

5 WHEREAS, Plaintiff has alleged that he has been the victim of discrimination based
6 upon age and gender;

7 WHEREAS, Plaintiff has alleged that the Federal Defendant and/or his agents, servants,
8 employees, or their predecessors, have retaliated against him and subjected him to a hostile work
9 environment;

10 WHEREAS, the Federal Defendant denies that any such discrimination, harassment,
11 retaliation, reprisal or any other illegal or improper conduct occurred;

12 WHEREAS, the parties hereto desire to resolve all claims involved in this litigation and
13 any other disputes arising out of Plaintiff's employment, or application for employment, with the
14 Federal Defendant through this Stipulation and Agreement for Compromise Settlement
15 ("Settlement Agreement") and buy peace;

16 THEREFORE, the parties agree as follows:

17 1. The parties do hereby agree to settle, compromise, and dismiss the above-
18 captioned action ("This Action") under the terms and conditions set forth herein.

19 2. After full and open discussion, the parties agree to settle, compromise, and fully
20 release any and all of Plaintiff's claims demands, suits, rights, damages, contracts, grievances,
21 charges, administrative remedies (including, but not limited to Merit Systems Protection Board
22 or Equal Employment Opportunity filings) and causes of action of whatsoever kind and nature,
23 whether known or unknown (hereinafter collectively, "Claims"), against the Federal Defendant
24 and all past and present officials, employees, agents or attorneys of the United States Department
25 of Justice, or the Office of the Inspector General, their successors and assigns. This release of all
26 Claims includes, but is not limited to, Claims that were brought, or could have been brought, in
27 the instant lawsuit, and all Claims of Plaintiff against the Federal Defendant based on events that

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STIPULATION AND AGREEMENT FOR COMPROMISE SETTLEMENT AND ~~PROPOSED~~ ORDER
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1 occurred on or before the date the Court dismisses this lawsuit.

2 3. The Federal Defendant agrees to pay the sum of Twenty-Five Thousand Dollars
3 and no cents (\$25,000.00) to Plaintiff under the terms and conditions set forth herein. The sum
4 of Twenty-Five Thousand Dollars and no cents (\$25,000.00) reflects the entire monetary amount
5 due Plaintiff his heirs, executors, administrators, assigns, and attorneys from the Federal
6 Defendant, and the parties further agree that Plaintiff and Federal Defendant shall each bear their
7 own costs, fees, interest and expenses and that any attorney's fees or costs owed by Plaintiff will
8 be paid out of the settlement amount of \$25,000 and not in addition thereto. As further
9 consideration for this Settlement Agreement, the Federal Defendant agrees to provide an
10 employment reference for Plaintiff that will acknowledge that Plaintiff left the agency voluntarily
11 and in good standing. The Federal Defendant designates Wanda Oliver as the point of contact
12 for references for Plaintiff.

13 4. Nothing herein is intended to be construed as an adjudication of the merits of any
14 factual or legal issue in this lawsuit or in any administrative proceeding. Further, nothing in this
15 Settlement Agreement shall constitute an admission of liability or fault on the part of the Plaintiff
16 or the Federal Defendant or any of their past or present officials, agents, attorneys, or employees
17 or any of their successors or assigns. Rather, this Settlement Agreement is entered into by the
18 parties for the purpose of compromising disputed Claims and avoiding the expenses and risks of
19 litigation. The parties further agree that this Settlement Agreement will not be regarded as a
20 precedent, and may not be used, cited, or compared by any person, except Plaintiff and the
21 Federal Defendant, for any purposes, against the Plaintiff or the Federal Defendant or their past
22 or present officials, agents, employees, attorneys, or any of their successors or assigns.

23 5. The parties agree that Plaintiff, for himself and his heirs, executors, administrators
24 and assigns, release and discharges the Federal Defendant as well as any of his past or present
25 officials, agents, employees, attorneys or any of their successors or assigns, from any and all
26 Claims, including but not limited to, any obligations and liabilities of any kind and nature
27 whatsoever, in any way arising out of the Plaintiff's employment or application for employment,
28 with the Federal Defendant and Plaintiff's complaint and administrative filings, up to and

1 including the date on which the Court dismisses the lawsuit.

2 6. Plaintiff specifically acknowledges, agrees, and understands that, by signing this
3 Settlement Agreement he is waiving any Claims (as defined above) for back pay, front pay,
4 attorneys fees, interest, pain and suffering, lost benefits and promotional opportunities, emotional
5 distress and all other pecuniary and non-pecuniary compensatory damages or other relief that
6 have been or could have been claimed in any proceeding alleging employment discrimination,
7 hostile work environment, or retaliation.

8 7. Plaintiff specifically agrees, as additional consideration for this Settlement
9 Agreement, that this Settlement Agreement shall apply to all unknown or unanticipated injuries
10 and damages, or any other Claims (as defined above), resulting from the incidents giving rise to
11 this lawsuit and giving rise to his administrative filings or complaints, as well as those which are
12 now known.

13 8. Plaintiff specifically agrees, as additional consideration for this Settlement
14 Agreement, to waive the provisions of California Civil Code Section 1542 set forth below:

15 A general release does not extend to claims which the creditor does not know or
16 suspect to exist in his favor at the time of executing the release, which if known
by him must have materially affected his settlement with the debtor.

17 The Plaintiff having been apprised of the statutory language of Civil Code Section 1542 by his
18 attorneys, and fully understanding the same, nevertheless elects to waive the benefits of any and
19 all rights he may have pursuant to the provision of that statute and any similar provision of
20 federal law. The Plaintiff understands that if the facts concerning the Plaintiff's injury and the
21 liability of the Federal Defendant, or his directors, officers, agents, servants, or employees,
22 attorneys or any of their successors or assigns for damages pertaining thereto or found hereafter
23 to be other than or different from the facts now believed by him to be true, this agreement shall
24 be and remain effective notwithstanding such material difference.

25 9. Plaintiff specifically agrees, as additional consideration for this Settlement
26 Agreement, that he will not apply for, or accept, employment with the United States Department
27 of Justice Office of Inspector General and will withdraw any pending applications. Plaintiff
28 recognizes that this provision of the Settlement Agreement will constitute a legitimate

1 nondiscriminatory and nonretaliatory business justification for refusing to hire Plaintiff with the
2 United States Department of Justice Office of Inspector General.

3 10. In consideration of the forgoing, the Plaintiff agrees that he will immediately upon
4 full execution of this agreement, execute a Joint Stipulation to Dismiss with Prejudice ("Joint
5 Stipulation to Dismiss"), all claims asserted in This Action or any claims that could have been
6 asserted in This Action, which is captioned *Ronald Mahtesian v. Michael Mukasey, Attorney*
7 *General for the Department of Justice*, U.S. District Court Northern District of California Case
8 No. C-07-4172 WHA and deliver such Joint Stipulation to Dismiss to counsel for the Federal
9 Defendant. The Federal Defendant agrees not to file the Joint Stipulation to Dismiss with the
10 Court until Plaintiff receives the settlement amount of Twenty-Five thousand dollars in
11 accordance with the provisions of this Settlement Agreement. Further, attorney for the Plaintiff
12 agrees to notify counsel for the Federal Defendant, in writing, within 5 calendar days of the
13 receipt of the settlement amount of Twenty-Five thousand dollars.

14 11. The parties agree that the resolution of the lawsuit, and all outstanding grievances
15 and administrative complaints, is based solely on the terms stated in this Settlement Agreement.
16 Furthermore, this written Settlement Agreement contains all of the agreements regarding the
17 subject matter hereof between the parties, and any of their officials, agents, attorneys, employees,
18 their successors, predecessors, or assigns and is intended to be, and is, the final and sole
19 agreement of such parties. The parties further agree that any other prior or contemporaneous
20 representations or understandings not explicitly contained in this written Settlement Agreement,
21 whether written or oral, are of no further legal or equitable force or effect. Any subsequent
22 modifications to this Settlement Agreement must be in writing, and must be signed and executed
23 by Plaintiff, and counsel for the Federal Defendant.

24 12. The Plaintiff and his heirs, executors, administrators, assigns and attorneys hereby
25 agree to accept the sum of Twenty-Five Thousand Dollars and no cents (\$25,000.00), in full and
26 final settlement and satisfaction of the claims raised in This Action under the terms and
27 conditions set forth herein.

28 13. It is also agreed, by and among the parties, that the settlement amount of Twenty-

1 Five Thousand Dollars and no cents (\$25,000.00) shall be made payable to Plaintiff Ronald
2 Mahtesian. The check will be mailed to the Plaintiff's attorney at the following address: Barbara
3 Rizzo, Esq. P.O. Box 15, Moss Beach, CA 94038.

4 14. This agreement may be pled as a full and complete defense to any action or other
5 proceeding, including any local, state or federal administrative action, involving any person or
6 party which arises out of the claims released and discharged by this agreement.

7 15. If any withholding or income tax liability is imposed upon Plaintiff based on
8 payment of the settlement sum as set forth herein, Plaintiff shall be solely responsible for paying
9 any such liability. Plaintiff, and his attorneys, will indemnify and hold harmless the Federal
10 Defendant from any liability the Federal Defendant may incur from any government agency
11 arising out of any failure by Plaintiff to pay any tax liability he might be responsible for from any
12 government agency.

13 16. Plaintiff and his attorney have been informed that payment of the settlement
14 amount may take 90 days or more to process.

15 17. The parties agree that the District Court shall retain jurisdiction over this matter
16 for the purposes of resolving any dispute alleging a breach of this agreement.

17 18. Each party acknowledges that they have been represented by and have relied upon
18 independent counsel in negotiating, preparing and entering into this agreement and that they have
19 had the contents of this agreement fully explained by counsel and that they are fully aware of and
20 understand all of the terms of the agreement and the legal consequences thereof. It is further
21 acknowledged that the parties have mutually participated in the drafting of this agreement and it
22 is agreed that no provision herein shall be construed against any party hereto by virtue of the
23 drafting of this agreement.

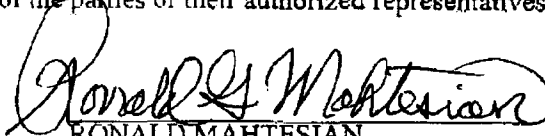
24 19. If any provision of this agreement shall be held invalid, illegal, or unenforceable,
25 the validity, legality, and enforceability of the remaining provisions shall not in any way be
26 affected or impaired thereby.

27 20. This instrument shall constitute the entire agreement between the parties, and it is
28 expressly understood and agreed that this agreement has been freely and voluntarily entered into

1 by the parties hereto with the advice of counsel, who have explained the legal effect of this
2 agreement. The parties further acknowledge that no warranties or representations have been
3 made on any subject other than as set forth in this agreement.

4 21. This agreement may not be altered, modified, or otherwise changed in any respect
5 except in writing, duly executed by all of the parties or their authorized representatives.

6
7 DATED: March 24, 2008


RONALD MAHTESIAN
Plaintiff

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10 DATED: March 24, 2008

BARBARA RIZZO, Esq.

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13 BARBARA RIZZO
14 Attorney for Plaintiff Ronald Mahtesian

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16 DATED: March 24, 2008

JOSEPH P. RUSSONIELLO
United States Attorney

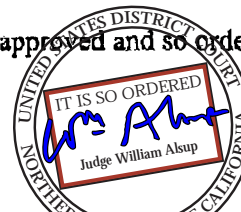
17
18 
19 MELISSA K. BROWN
20 Assistant United States Attorney
Attorney for the Federal Defendant

21 **ORDER**

22 Pursuant to the above Stipulation and Agreement approved and so ordered

23
24 **IT IS SO ORDERED.**

25 Dated: March 25, 2008.



26 **WILLIAM H. ALSOP**
27 United States District Court Judge
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